

# Exhibit 2



Southern  
Environmental  
Law Center

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June 22, 2018

FOIA Officer  
United States Forest Service, Southern Region  
1720 Peachtree Rd. NW, Suite 811N  
Atlanta, GA 30309  
*Via email:* R8\_FOIA@fs.fed.us

**Re: Freedom of Information Act records request regarding Mountain Valley Pipeline noncompliance**

Dear FOIA Officer,

This is a request for records in the custody of the United States Forest Service (“Forest Service”) submitted by the Southern Environmental Law Center (“SELC”). SELC is a non-profit, public-interest organization which advocates for, and represents other organizations that also advocate for, among other things, adequate implementation of and compliance with the National Environmental Policy Act and other federal environmental statutes by federal agencies.

**A. Request for Records**

Please provide<sup>1</sup> all records within the possession of the Forest Service which were created between December 1, 2017 and the date that the agency commences its search for responsive records that relate to any actual or potential noncompliance with applicable requirements, including but not limited to erosion

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<sup>1</sup> To the maximum extent possible, please provide responsive records in an electronic format. I am happy to facilitate delivery of the documents via an online document sharing platform such as Sharefile, if helpful.

and sediment control measures, and any actual or potential violations of water quality standards by Mountain Valley Pipeline.

For the purposes of this request, “records” means all written communications, notes, reports, memoranda, voicemails, electronic mail and attachments thereto, PowerPoint or other similar presentations, maps, photographs, drawings, data, tables, spreadsheets, records of phone conversations, observations, impressions, policies and directives, letters, and any other electronic or analog communications, whether in draft or final form.

The request includes records generated wholly within the United States Forest Service or including other agencies, persons, or entities, including but not limited to any third party contractor for the Forest Service, the United States Fish & Wildlife Service, the Federal Energy Regulatory Commission, the United States Army Corps of Engineers, the United States Department of Agriculture, the Virginia Secretary of Natural Resources, the Governor of Virginia, the Virginia Department of Conservation and Recreation, the Virginia Department of Environmental Quality, the Virginia Department of Game and Inland Fisheries, or Mountain Valley Pipeline, LLC or any of its owners, contractors, or consultants.

If records (or any portions thereof) are determined to be exempt for any reason, please provide any segregable material and indicate how much material has been withheld and on what grounds. 5 U.S.C. § 552(b); 7 C.F.R. § 1.7. To the extent that the requested records are maintained in a common electronic format, we request that they be provided in that format.

#### **B. Fee Waiver Request**

We also request a fee waiver in connection with this request for records. Fee waivers are to be granted whenever disclosure would serve the public interest (as opposed to a commercial interest) and would contribute significantly to public

understanding of government operations or activities.<sup>2</sup> Here, the request would serve no commercial interest. SELC, a non-profit public interest organization, lacks any commercial interest in the records, and none of its clients have any such interest. SELC is dedicated to using the power of the law to protect clean air, clean water, and special places throughout the six Southeastern states in which we work: Alabama, Tennessee, Georgia, South Carolina, North Carolina, and Virginia. SELC does not charge its clients for legal advice or representation; instead, SELC provides such advice and representation free of charge within the scope of its mission.

We seek these records in order to inform the public about the impacts of pipeline construction on public lands. Disclosure of records responsive to this request will aid the public's understanding of how construction of the Mountain Valley Pipeline has affected the Jefferson National Forest and neighboring lands and downstream waters, as well as its understanding of how the Forest Service is enforcing environmental requirements while the pipeline is being constructed. SELC has extensive experience in reviewing, understanding, synthesizing, and communicating information relating to the National Environmental Policy Act, National Forest Management Act, and other relevant statutes and regulations in our Southeastern states, furthering public understanding and dialogue.<sup>3</sup>

Further, this enhanced understanding will accrue to a significant segment of the public. In addition to making information available on our website to anyone searching for it,<sup>4</sup> SELC also actively distributes information to the public through

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<sup>2</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>3</sup> See <http://www.southernenvironment.org/news-and-press/in-the-news> for current examples of media coverage informed by information disseminated by SELC.

<sup>4</sup> For examples relevant to federal agencies and the Atlantic Coast Pipeline, please visit SELC's website at <https://www.southernenvironment.org/cases-and-projects/proposed-natural-gas-pipeline-threatens-scenic-western-virginia>; <https://www.southernenvironment.org/news-and-press/press-releases/selc-requests-ferc-hearing-as-dominion-duke-energy-look-to-build-acp-on-the>; <https://www.southernenvironment.org/news-and-press/news-feed/selc-appalachian-mountain-advocates-ask-court-to-halt-pipeline-construction>.

newsletters and other publications.<sup>5</sup> SELC also disseminates information about issues related to NEPA and national forest management by participating in meetings and conferences. Further, SELC coordinates with a diverse collection of partner organizations actively working to participate in the environmental review of projects undertaken by federal agencies including the U.S. Forest Service. Each of these partners has its own base of supporters to which it will disseminate the information disclosed pursuant to this request. SELC's and its partners' supporters are directly affected by decisions made by federal agencies through the NEPA and NFMA processes. As a result, information about any responsive records will be shared with a substantial portion of the public, and, specifically, a portion of the public affected by and involved with participation in NEPA and NFMA processes.

In reviewing this information and distilling it for the public, SELC's legal expertise will enable it to explain to the public the environmental effects of the Mountain Valley Pipeline on National Forest lands and to assess and explain the Forest Service's inspection, compliance monitoring, and enforcement efforts. Since the Mountain Valley Pipeline project was announced, the project has generated widespread public interest, including public interest in impacts to public lands. It is routinely the subject of press stories in Virginia, and thousands of commenters participated in opportunities for public input with the Forest Service, the Federal Energy Regulatory Commission, and state agencies.

If this request for a fee waiver is denied, please notify us promptly and provide an estimate of the fees associated with the request. If you require any further information or documentation, please do not hesitate to contact me. Thank you for your prompt attention to this request.

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<sup>5</sup> To see some recent examples, please visit <http://www.southernenvironment.org/news-and-press/publications>.

Sincerely,

A handwritten signature in black ink that reads "Jonathan M. Gendzier". The script is cursive and fluid, with the first name "Jonathan" and last name "Gendzier" clearly legible.

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